IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.3083 OF 2006

Harish Nickel Screen Pvt. Ltd.
and Another ..Petitioners
Vs.
The Additional Director General
of Foreign Trade & Ors. ..Respondents

Mr.R.Jaisinghani i/b.Mr.Munir Merchant for the Petitioners.
Mr.A.R.Choudhari with Mr.R.C.Master for Respondent Nos.1 to 4.
Mr.S.K.Nair, Panel Counsel for Respondent Nos.5 and 6.

CORAM :- DR.S.RADHAKRISHNAN &
J.P.DEVADHAR,JJ.
DATE : 19TH JANUARY,2007

P.C.

1. Heard the learned Counsel for the parties. In this Petition, the Petitioners have challenged the order dated 27th July,2006 passed by the Additional Director General of Foreign Trade, mainly on the ground that the Petitioners were not offered a fair opportunity of hearing and that the order was passed exparte. We have perused the correspondence and it appears that though the Petitioners had already made a pre-deposit, a notice dated 17th May,2006 sent by the office of the Director General of Foreign Trade to the Petitioner indicating that the hearing was kept on 12th June,2006 at 3.00 p.m. for consideration of the issue of waiver of pre-deposit of penalty. The Petitioners appear to have bonafide believed that as the Petitioners had already made a pre-deposit of penalty, the above notice sent by Respondent No.1 must

be erroneous one, hence did not appear on 12th June,2006.

2. The above misunderstanding took place in view of the above erroneous notice. Therefore, in the larger interest of justice, the Petitioner ought to have given an opportunity of personal hearing in the main matter. Hence we are inclined to set aside the order dated 27th July,2006 passed by the Additional Director General of Foreign Trade, and accordingly the same stands quashed and set aside. The matter is remanded back to the Additional Director General of Foreign Trade for a fresh hearing. The Additional Director General of Foreign Trade shall decide the same, strictly on its own merits in accordance with law.

3. Needless to say that the Additional Director General of Foreign Trade shall issue a 15 days prior notice to the Petitioners indicating the date of hearing.

4. Rule is accordingly made absolute.

(DR.S.RADHAKRISHNAN,J.)

(J.P.DEVADHAR,J.)